

On December 18, 1936, and January 4, 1937, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

26646. Adulteration of apples. U. S. v. 99 Bushels of Fresh Apples. Consent decree of condemnation. Product released under bond, conditioned that deleterious substances be removed. (F. & D. no. 38740. Sample nos. 19114-C, 19116-C, 19117-C.)

This case involved apples that were contaminated with arsenic and lead.

On November 16, 1936, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 bushels of apples at Evanston, Wyo., alleging that the article had been transported in interstate commerce on or about October 30, 1936, from the Ben Lomond Orchard Co., Ogden, Utah, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Grown and Packed by The Ben Lomond Orchard Co. Ogden, Utah."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it injurious and harmful to health.

On November 27, 1936, the Ben Lomond Orchard Co., Ogden, Utah, and the Wyoming State Hospital, Evanston, Wyo., claimants, having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond to be returned to the packer to be cleaned in order to remove the deleterious substances.

M. L. WILSON, *Acting Secretary of Agriculture.*

26647. Adulteration of tomato catsup. U. S. v. 499 Cases and 886 Cases of Catsup. Consent decrees of condemnation. Product released under bond for segregation and destruction of unfit portions. (F. & D. nos. 35281, 35411. Sample nos. 27396-B, 27853-B, 32853-B.)

These cases involved interstate shipments of tomato catsup a part of which was filthy by reason of worm and insect infestation.

On March 20 and April 20, 1935, the United States attorney for the Western District of Missouri, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,385 cases of tomato catsup at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about October 6, November 5, and December 15, 1934, and February 28 and March 1, 1935, by Libby, McNeill & Libby from Manzanola and Rocky Ford, Ill., and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Rose-Dale Brand Tomato Catchup * * * Packed by Libby, McNeill & Libby Chicago."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On June 26, 1935, Libby, McNeill & Libby, claimant, having admitted the allegations of the libels and having consented thereto, decrees of condemnation were entered, which were subsequently amended and as amended provided that the codes deemed by the claimant as being in compliance with the law be released for further examination, that those codes found by such re-examination to be in compliance with the law be released and that those codes found to be bad, as well as those which were admitted by the claimant to be bad, be destroyed.

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26648. Adulteration of butter. U. S. v. 194 Pounds, et al., of Butter. Default decree of condemnation and destruction. (F. & D. nos. 38570, 38571, 38698, 38699, 38804. Sample nos. 7692-C to 7695-C, incl., 7700-C.)

Samples of butter taken from these shipments were found to contain mold, maggots, insects, and filth.

On November 6, 1936, the United States attorney for the Western District of Virginia, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 991 pounds of butter at Roanoke, Va., alleging that the article had been shipped in interstate commerce in part on or about October 30, 1936, and in part on or about November 5, 1936, in various lots by Smithys Store from Taylorsville, N. C.; Pearsons

Store from Boone, N. C.; L. S. Vannoy from West Jefferson, N. C.; H. W. Reece from Crutchfield, N. C.; L. W. Garman from Princeton, W. Va.; W. A. Johannes from Elkin, N. C.; S. G. Holcomb from Elkin, N. C.; and W. E. Reid & Co., from Dobson, N. C., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy, decomposed, and putrid animal substance.

On November 6, 1936, no claim having been entered for the product, and the Roanoke Butter & Cheese Co. Inc., the consignee, having consented to its destruction, judgment was entered, covering all lots, ordering that it be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

26649. Adulteration and misbranding of jams and preserves. U. S. v. 8 Cases of Strawberry Jam, et al. Consent decree of condemnation. Products released under bond to be relabeled. (F. & D. nos. 36645, 36646, 36814. Sample nos. 21684-B to 21687-B, incl., 49913-B to 49917-B, incl.)

These products contained less fruit and more sugar than jams and preserves should contain. They contained added pectin, excessive moisture, in some lots added phosphoric acid and in one lot added color. One lot of jam was short weight.

On November 21 and December 19, 1935, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 27 cases of jam and preserves at Newark, N. J., 54 dozen jars of jams at Hoboken, N. J., and 24 cases of preserves at Jersey City, N. J., alleging that the articles had been shipped in interstate commerce, in various shipments on or about September 5, September 14, October 14, and October 25, 1935, by the Fresh Grown Preserve Corporation from Brooklyn, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The jams were labeled: (Jar) "Milrey Brand Pure Strawberry Jam [or "Pure Raspberry Jam"] Milrey Packing Co."; (cases) "Milrey Pure Straw Jam" [or "Milrey Pure Rasp Jam"]. The jars of raspberry jam were further labeled: "7½ Oz. Net." The preserves were labeled: (Jar) "Nature's Own Brand Strawberry [or "Raspberry", "Blackberry", or "Peach"] Preserve * * * Fresh Grown Preserve Corp. Brooklyn, New York."

The articles were alleged to be adulterated in that sugar, water, and pectin, and in some instances acid, had been mixed and packed with the articles so as to reduce and lower their quality; in that mixtures of fruit, sugar, water, and pectin, containing in some instances acid, and in the one lot of raspberry jam, artificial color, had been substituted for jams and preserves; and in that the articles had been mixed and in the case of the raspberry jam, colored in a manner whereby inferiority was concealed.

The articles were alleged to be misbranded in that the statements on the jars, "Pure Strawberry Jam", "Pure Raspberry Jam", "Pure Strawberry Preserve", "Pure Raspberry Preserve", "Pure Blackberry Preserve", and "Pure Peach Preserve"; and on the cases containing certain of the products, "Pure Straw Jam", "Pure Rasp Jam" and "Pure Rasp & Straw Jam", were false and misleading and tended to deceive and mislead the purchaser when applied to imitation jams and preserves. Misbranding was alleged for the further reason that the articles were imitations of and offered for sale under the distinctive names of other articles.

Misbranding was alleged with respect to the raspberry jam for the further reason that the statement "7½ Oz. Net", borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to a product which was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was incorrect.

On February 6, 1936, the cases having been consolidated, and the Fresh Grown Preserve Corporation, claimant, having admitted the allegations of the libels and consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the products be released under bond conditioned that they be emptied into other containers and properly labeled.

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